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11 March 2020

Mr J Freeman
Head of Planning
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent ME10 3HT

By email only to JamesFreeman@swale.gov.uk

Dear Mr Freeman,

**URGENT- Borden Parish Council Review Feedback
Borden (The Street) Conservation Area Boundary Extension
Borden Parish Character Appraisals and Management Plan Area Reviews**

I refer to the consultation letter dated 19 February 2021 from Simon Algar to me in connection and to respond as appropriate.

The Trustees wish to lodge an **OBJECTION** to the above-mentioned document and in particular to the extension of the Borden (The Street) Conservation Area as proposed in the document.

THE WILLIAM BARROW'S CHARITY (the Charity) owns agricultural land and Yew Tree Cottage to the west of Borden, and which are now proposed to be included in the conservation area following a review of the conservation area boundary. This land is identified with a red broken line and labelled in red as area 2 on map 5 (page 27) of the document entitled *Conservation Area boundary extension and Listed Buildings*. The land is currently in agricultural use as pastureland and orchard.

Following legal and planning consultant's advice the view is that there is no justification set out in the document for the inclusion of this land and property to be included as part of an enlarged conservation area. Conservation Areas can be created where a local planning authority identifies an area of special architectural or historic interest, which deserves careful management to protect that character of a village or area.

Within the document there is no reasoning, or any detailed justification set out for the inclusion of this land within the conservation area. The report does provide a detailed overview and historical development of the village in the character appraisal of existing buildings within the conservation area. However, the work undertaken justifying the proposed boundary extensions is not detailed and the inclusion of the land appears to be based on attempts to protect 'the setting' of the conservation area although the site is some distance from the defined settlement boundary of Borden.

The protection of the conservation area through short, medium, and long-range views is already afforded protection in itself through the statutory legislation. There is no basis to include these areas within the conservation area. In assessing any impacts arising from development on the setting of existing heritage assets

(i.e., conservation areas and listed buildings) the setting of the heritage asset is taken into consideration by local planning authorities.

There is no requirement in any guidance from statutory or non-statutory bodies to apply a broad-brush approach and significantly extend boundaries of existing conservation areas based purely on maintaining a setting of a heritage asset. Good Practice Advice in Planning (GPA) 'Note 2: Managing Significance in Decision Taking in the Historic Environment' (2015) provides information on good practice to aid decision makers in the implementation of policy set out in the NPPF and PPG.

GPA 'Note 3: *The Setting of Heritage Assets*' (2017) sets out advice on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites and area.

I draw to your attention paragraph 186 of the National Planning Policy Framework document which states

*'When considering designating conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural and historical interest, **and that the concept of conservation is not devalued through designation of areas that lack special interest (emphasis added).***

Conservation Area designations and periodic reviews do not require surrounding open land that has little or no conservation merit to be included within the boundaries of such areas. Guidance from Historic England recommends that conservation area boundaries should be drawn tightly around an area in order to justify and protect buildings of special architectural and historic interest and also not to devalue the area through lack of special interest.

The significance of a heritage asset is defined in the NPPF as being made up of four main constituents, architectural interest, historical interest, archaeological interest and artistic interest. The setting of a heritage asset is not included as one of these constituents. Indeed, extending the conservation area over this land and Yew Tree Cottage adds an unnecessary duplication of planning control as the cottage itself is already a Grade II listed building.

On map 6 titled '*Historical Development*' contained in the document, the land is colour washed indicating that the land forms part of the historical settlement development of Borden in 17th and 18th Century. This is factually incorrect. The land has never formed part of the built-up fabric of the village. The historic mapping sequence on page 32 (map 7) clearly illustrate this error with plans dating back to 1797 showing it was agricultural land.

Furthermore, the site has no archaeological significance as identified in map 8 (page 35) of the document.

The key characteristics of the existing conservation area identified in the report are the historic church, an old manor house surrounded by large mature trees, timber framed buildings and other cottages grouped along the village street, a public house and village green.

The document also states:

'It (the conservation area) has a rural countryside to the north, east and west with features of historic and architectural interest which relates to the significance of the Conservation Area.

The land in question has no such historic or architectural interest or characteristics. There is reference in the document that the land owned by the Charity is a traditional orchard. This is partially correct as many of the trees have been lost due to their age and health and are now considered liability on the grounds of health and safety. The southern approach to the village along Pond Farm Road is extensively farmed as arable land.

Although agricultural permitted developments still apply within the conservation area, I am concerned that there will in time be a further erosion of such rights should the conservation area extension proceed to adoption status. Within conservation areas, local planning authorities are able to apply Article 4 Directions removing permitted developments.

Designating agricultural land as part of a conservation area is an extreme measure in the circumstances. Conservation area status provides local planning authorities the ability to add further restrictive measures and

controls which will impede the ability the owners to farm this land on a commercial basis. The report remains silent on this matter, but it is of grave concern as there will already be Article 4 directions on household properties in the village.

The report itself identifies the need to protect views of landmarks views and vistas both within and outside the conservation area. As we have stated, this can already be achieved without having an additional layer of bureaucracy imposed on the land.

The CHARITY also wishes to lodge again our previous objections and representations at this stage on a strictly procedural matter and how this consultation exercise has been managed by the Council to date.

The Council undertook a public consultation exercise between 5 October 2020 to 15 November 2020 in respect of proposed extensions and changes to the four conservation areas in Borden as set out in the Borden Management Extension that covered changes to four conservation areas in Borden.

I understand the limited number of comments and representations received by the Council were considered at the Local Plan Panel meeting on 18 February 2021. Although the Committee recognised that certain landowners had not been consulted, it recommend proceeding with the conservation area extension and this is to be considered again at the Council's Cabinet on 17 March 2021. The Committee has since considered that any comments from landowners who had not been consulted could be reported to the Cabinet meeting on 17 March 2021.

The Trustees do not consider this to be a transparent or fair on other parties including those affected by the proposed extension are the owners of land within the proposed extension of the conservation area. The Council's Local Plan Panel reached a decision on this consultation with the full knowledge that it had not heard the views of the landowners who were most affected by the proposals. They consider it is unfair in the circumstances for the Council to proceed on this basis.

It is worth taking into consideration, that Historic England advises in its own guidance note entitled '*Conservation Area Appraisal, Designation and Management*' **that owners should be consulted**. In particular paragraph 28 of the guidance states:

“by consulting local communities and owners on new designations, and when appraising and reviewing conservation areas consideration can be given to relevant information that either might present, helping to ensure decisions are robust. Local communities and owners will also be helpful in providing proactive assistance in identifying the general areas that merit conservation area status and defining the boundaries.”

Whilst there is no legal requirement for local authorities to consult in respect of conservation areas in advance of their designation or extension, the Council's own website sets out its policy on such matters as follows:-

‘Public consultation is required where the local planning authority wishes to designate a new conservation area, de-designate an existing conservation area, alter the boundaries of an existing conservation area, or it seeks to introduce additional control in the conservation area by means of a special mechanism called an Article 4 Direction.’

In light of the above, I consider that the only fair and transparent procedure is for the Council to undertake the consultation exercise again and give all other landowners within the proposed extension area a full six-week period of consultation.

The comments received should then be considered as a whole by the Committee and not on an *ad-hoc* basis. This will ensure that the recommendation made to Cabinet by the Local Plan Panel reflects the results of an appropriate consultation exercise and that the views of landowner's form part of the consideration.

We are not aware of any reason why the Council must proceed urgently with its conservation area review. Therefore, I request that the Council starts once again, with a fair and transparent procedure.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stuart Mair', written in a cursive style.

Stuart Mair

Clerk to the Trustees

Cc Cllr J Hunt
Mr S Algar
Mr S Batt – Chairman of Trustees
Cllr M Baldock